



Polster, Lieder, Woodruff & Lucchesi, L.C.

Patent ■ Trademark ■ Copyright ■ Trade Secret ■ Unfair Competition

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NELSON D. NOLTE

July 20, 2005

BOX TTAB - FEE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Notice of Opposition to Ser. No. 76/576,412
For the Trademark : BIG FOOT
Applicant : Big O Tires, Inc.
Published in the Official Gazette of March 22, 2005 at TM 210

Sir:

Enclosed are:

- (1) Notice of Opposition, (in duplicate);
Exhibits 1-9
- (2) Check for \$300 for government filing fee.

Communications in connection with this matter should be directed to: Nelson D. Nolte.

Respectfully submitted,

Nelson D. Nolte

NDN/dmc
encls.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service via First Class Mail with sufficient postage in an envelope addressed to: Box TTAB, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA, 22313-1451, on July 20, 2005.

Nelson D. Nolte, Reg. No. 42,938

07-25-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #39

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Serial No. : **76/576,412**
For the Mark: : **BIG FOOT**
Applicant: : **Big O Tires, Inc.**
Published in the Official Gazette on : **March 22, 2005 at TM 210**

BIGFOOT 4X4, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No:
)	
BIG O TIRES, INC.)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Bigfoot 4X4, Inc, a corporation organized and existing under the laws of the State of Missouri, located and doing business at 6311 N. Lindbergh, Hazelwood, Missouri 63042, believes that it will be damaged by registration of the mark BIG FOOT for "batteries" shown in Serial No. 76/576,412 and hereby opposes same.

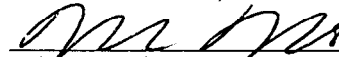
Applicant's mark was published in the Official Gazette of September 24, 2002 AT page TM 210 and Opposer requested a 30-day and a 60-day Extension of Time to file a Notice of Opposition. The time for filing the Notice of Opposition is currently set to expire July 20, 2005.

07/27/2005 6THOMAS2 00000034 76576412

01 FC:6402

300.00 OP

I hereby certify that this correspondence is being deposited with the U.S. Postal Service via first class mail with sufficient postage in an envelope addressed to Box TTAB, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA, 22313-1451, on July 20, 2005.


Nelson D. Nolte, Reg. No. 42,938

As grounds of opposition it is alleged that:

1. Opposer, Bigfoot 4X4, Inc. and its predecessors have for many years since about July 1976 been engaged in the business and service of building and displaying at various events a truck bearing the mark BIGFOOT. Opposer has been conducting entertainment services and four wheel drive exhibitions continuously since July 1976 with its BIGFOOT vehicle.

2. Opposer, Bigfoot 4X4, Inc. and its predecessor for many years prior to Applicant's filing date, have used the trademark BIGFOOT on many goods and services, including monster trucks, street trucks, go carts, toy vehicles, including ride-on toy trucks, roller skates, electronic games, other games, videos, clothing, vehicle parts, posters, photographs and catalogs, and entertainment services in the nature of conducting four wheel drive vehicle exhibitions.

3. Opposer is the owner by assignment of U.S. Registration Nos. 1,387,617 and 1,228,960, and is the owner of U.S. Registration Nos. 1,973,606, 1,446,868, 1,433,779, and 1,445,622, all for the mark BIGFOOT. Opposer is also the owner of Registration Nos. 1,448,582, 1,251,879 and 1,441,142 for various designs of a BIGFOOT Monster Truck, which registrations recite goods and services which are relevant to the present opposition. Copies of the registrations identified above are attached and identified as Exhibits 1-9.

4. Opposer has publicized and advertised its BIGFOOT mark and its trade name BIGFOOT in various ways, and Opposer has built up extensive goodwill in connection with said BIGFOOT mark and tradename. Opposer's BIGFOOT truck have appeared in thousands of live events, on the covers of dozens of magazines, in hundreds of network and cable television shows, and in several movies.

5. Opposer's trademark BIGFOOT is and, since long prior to Applicant's filing date, has been favorably known to the trade as indicating Opposer as the source of goods and services with which the mark is used, and Opposer's trademark and goodwill associated therewith constitutes valuable property of Opposer.

6. The mark sought to be registered by Applicant and the mark of Opposer are substantially identical, and their concurrent use on the related goods set forth in application serial number 76/576,412 (batteries) and goods and services of Opposer is likely to cause confusion, or to cause mistake, or to deceive the purchasing public, to the damage of Opposer.

7. Opposer's goodwill and reputation will be damaged by Applicant's use and registration of the mark BIG FOOT for batteries, since purchasers seeing Applicant's BIG FOOT bicycles are likely to believe that said batteries originate with Opposer or in some way are associated with or sponsored by Opposer. Applicant's mark will cause damage and injury to Opposer.

8. Opposer's mark BIGFOOT is a famous and widely known mark and registration and use by Applicant of the identical mark on batteries will dilute distinctiveness, recognition and the value of Opposer's mark causing damage and injury to Opposer.

9. The granting of a registration to Applicant of the mark sought to be registered as applied to the goods set out in the application will give Applicant rights adverse to those of Opposer, to the further damage of Opposer.

WHEREFORE, Opposer, Bigfoot 4X4, Inc., prays that application serial number 76/576,412 be rejected, that registration of the mark therein shown for the goods therein specified be refused and denied, and that Application Serial No. 76/576,412 be stricken from the Patent and Trademark Office files.

A duplicate copy of this Notice of Opposition and the fee required in §2.61(1) are enclosed herewith.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "N. D. Nolte", written over a horizontal line.

Nelson D. Nolte

Registration No: 42,938

Polster, Lieder, Woodruff & Lucchesi, L.C.

12412 Powerscourt Dr. Ste. 200

St. Louis, MO 63131

(314) 238-2400

ASSIGNED TO BIGFOOT 4X4, INCORPORATED

12-18-85 (RECORDED 4-30-86; Reel 525, Fr. 295-296)

P.F. 9552

Int. Cl.: 28

Prior U.S. Cl.: 22

United States Patent and Trademark Office

Reg. No. 1,228,960

Registered Mar. 1, 1983

TRADEMARK
Principal Register

BIGFOOT

Arco Industries Ltd. (Hong Kong corporation)
505 Star House
Kowloon, Hong Kong

For: TOY VEHICLES HAVING 4-WHEEL
DRIVE, in CLASS 28 (U.S. Cl. 22).

First use Apr. 13, 1981; in commerce Apr. 13,
1981.

No claim is made to the exclusive right to use the
representation of two wheels, apart from the mark as
shown.

Ser. No. 313,073, filed Jun. 3, 1981.

WILBUR C. DAVIS, Examining Attorney

Amendment

Registered March 1, 1983

Registration No. 1,228,960

Arco Industries Ltd.

Application to amend having been made by Arco Industries Ltd., owner of
the registration above identified, the drawing is amended to appear as follows:

BIG FOOT

Such amendment has been entered upon the records of the Patent and
Trademark Office and the said original registration should be read as so
amended.

Signed and sealed this 5th day of June 1984.

[SEAL]

OPPOSER'S EX. 1

Int. Cl.: 41

Prior U.S. Cl.: 107

United States Patent and Trademark Office

Reg. No. 1,251,879

Registered Sep. 20, 1983

SERVICE MARK

Principal Register



Bigfoot 4 X 4, Incorporated (Missouri corporation)
5511 N. Lindbergh Blvd.
St. Louis, Mo. 63042

For: ENTERTAINMENT SERVICES—NAME-
LY, CONDUCTING FOUR WHEEL DRIVE VE-
HICLE EXHIBITIONS, in CLASS 41 (U.S. Cl.
107).

First use Jul. 1976; in commerce Jul. 1976.

Ser. No. 297,163, filed Feb. 17, 1981.

CARLISLE WALTERS, Examining Attorney

ASSIGNED TO BIGFOOT 4x4, INCORPORATED

12-18-85 (RECORDED 4-30-86; Reel 525, Fr. 295-296)

P.F. 9552

Int. Cl.: 28

Prior U.S. Cl.: 22

United States Patent and Trademark Office

Reg. No. 1,387,617

Registered Mar. 25, 1986

TRADEMARK
PRINCIPAL REGISTER

BIG FOOT

ARCO INDUSTRIES LTD. (HONG KONG COR-
PORATION)
800 SHAMES DR.
WESTBURY, NY 11590

FIRST USE 4-13-1981; IN COMMERCE
4-13-1981.

OWNER OF U.S. REG. NO. 1,228,960.

SER. NO. 424,692, FILED 5-6-1983.

FOR: TOY VEHICLES, IN CLASS 28 (U.S. CL.
22).

AMOS T. MATTHEWS, JR., EXAMINING AT-
TORNEY

Int. Cl.: 16



P.F. 9424

Prior U.S. Cls.: 37 and 38

United States Patent and Trademark Office Reg. No. 1,433,779
Registered Mar. 24, 1987

**TRADEMARK
PRINCIPAL REGISTER**

BIGFOOT

BIGFOOT 4X4, INCORPORATED (MISSOURI
CORPORATION)
617 PLANTMORE
ST. LOUIS, MO 63135

FIRST USE 7-0-1976; IN COMMERCE
7-0-1976.

SER. NO. 416,166, FILED 3-7-1983.

FOR: PHOTOGRAPHS, POSTERS, CALEN-
DARS, IRON-ON TRANSFERS, AND CATA-
LOGS, IN CLASS 16 (U.S. CLS. 37 AND 38).

STEVEN L. CATALANO, EXAMINING ATTOR-
NEY

Int. Cl.: 41

Prior U.S. Cl.: 107

United States Patent and Trademark Office

Reg. No. 1,445,622

Registered June 30, 1987

SERVICE MARK
PRINCIPAL REGISTER

BIGFOOT

BIGFOOT 4X4 INCORPORATED (MISSOURI
CORPORATION)
6311 N. LINDBERGH
ST. LOUIS, MO 63042

FOR: ENTERTAINMENT SERVICES -
NAMELY, CONDUCTING FOUR WHEEL
DRIVE VEHICLE EXHIBITIONS, IN CLASS 41
(U.S. CL. 107).

FIRST USE 7-0-1976; IN COMMERCE
7-0-1976.

OWNER OF U.S. REG. NOS. 1,228,960,
1,251,879, AND 1,387,617.

SER. NO. 450,276, FILED 10-31-1983.

DOMINICK J. SALEMI, EXAMINING ATTOR-
NEY



Int. Cl.: 42

Prior U.S. Cl.: 101

United States Patent and Trademark Office

Reg. No. 1,446,868

Registered July 7, 1987

**SERVICE MARK
PRINCIPAL REGISTER**

BIGFOOT

BIGFOOT 4X4, INCORPORATED (MISSOURI
CORPORATION)
6311 N. LINDBERGH
ST. LOUIS, MO 63042

FIRST USE 3-0-1980; IN COMMERCE
3-0-1980.

OWNER OF U.S. REG. NOS. 1,228,960,
1,251,879, AND 1,387,617.

FOR: MAIL ORDER SERVICES IN THE
FIELD OF NOVELTY ITEMS, IN CLASS 42
(U.S. CL. 101).

SER. NO. 416,164, FILED 3-7-1983.

DOMINICK J. SALEMI, EXAMINING ATTOR-
NEY

Int. Cl.: 25



Prior U.S. Cl.: 39

United States Patent and Trademark Office

Reg. No. 1,448,582

Registered July 21, 1987

**TRADEMARK
PRINCIPAL REGISTER**



BIGFOOT 4X4, INCORPORATED (MISSOURI
CORPORATION)
617 PLANTMORE
ST. LOUIS, MO 63135

FIRST USE 8-0-1982; IN COMMERCE
8-0-1982.

SER. NO. 416,165, FILED 3-7-1983.

FOR: T-SHIRTS, JERSEYS, JACKETS, AND
CAPS, IN CLASS 25 (U.S. CL. 39).

CRAIG K. MORRIS, EXAMINING ATTORNEY

Int. Cl.: 12

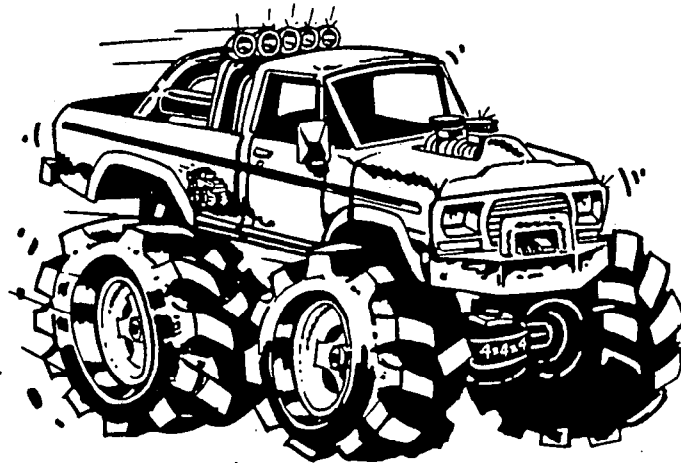
Prior U.S. Cl.: 19

United States Patent and Trademark Office

Reg. No. 1,441,142

Registered June 2, 1987

**TRADEMARK
PRINCIPAL REGISTER**



BIGFOOT 4X4, INCORPORATED (MISSOURI
CORPORATION)
617 PLANTMORE
ST. LOUIS, MO 63135

FOR: VEHICLES—NAMELY, TRUCKS, IN
CLASS 12 (U.S. CL. 19).

FIRST USE 7-0-1976; IN COMMERCE
7-0-1976.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE THE REPRESENTATION OF A
TRUCK, APART FROM THE MARK AS
SHOWN.

SER. NO. 416,167, FILED 3-7-1983.

JEFFERSON FRIDAY, EXAMINING ATTOR-
NEY



Int. Cl.: 25

Prior U.S. Cl.: 39

United States Patent and Trademark Office

Reg. No. 1,973,606

Registered May 14, 1996

**TRADEMARK
PRINCIPAL REGISTER**

BIGFOOT

BIGFOOT 4X4, INCORPORATED (MISSOURI
CORPORATION)
6311 N. LINDBERGH
HAZELWOOD, MO 63042

OWNER OF U.S. REG. NOS. 1,387,617, 1,448,582
AND OTHERS.

SER. NO. 74-482,912, FILED 1-25-1994.

FOR: T-SHIRTS, JERSEYS, JACKETS AND
CAPS, IN CLASS 25 (U.S. CL. 39).
FIRST USE 0-0-1979; IN COMMERCE
0-0-1979.

JACQUELINE A. LAVINE, EXAMINING AT-
TORNEY